

281—41.1007(17A,256B) Evidentiary hearing.

41.1007(1) *Testimony and other evidence.* An evidentiary hearing provides for the testimony of witnesses, introduction of records, documents, exhibits or objects.

41.1007(2) *Appellant statement.* The appellant may begin by giving a short opening statement of a general nature, which may include the basis for the appeal, the type and nature of the evidence to be introduced and the conclusions the appellant believes the evidence shall substantiate.

41.1007(3) *Appellee statement.* The appellee may present an opening statement of a general nature and may discuss the type and nature of evidence to be introduced and the conclusions the appellee believes the evidence shall substantiate.

41.1007(4) *Third-party statement.* With the permission of the administrative law judge, a third party may make an opening statement of a general nature.

41.1007(5) *Witness testimony and other evidence.* The appellant may then call witnesses and present other evidence.

41.1007(6) *Witness under oath.* Each witness shall be administered an oath by the administrative law judge. The oath may be in the following form: “I do solemnly swear or affirm that the testimony or evidence which I am about to give in the proceeding now in hearing shall be the truth, the whole truth and nothing but the truth.”

41.1007(7) *Cross-examination by appellee.* The appellee may cross-examine all witnesses and may examine and question all other evidence.

41.1007(8) *Witness testimony and other evidence.* Upon conclusion of the presentation of evidence by the appellant, the appellee may call witnesses and present other evidence. The appellant may cross-examine all witnesses and may examine and question all other evidence.

41.1007(9) *Questions by administrative law judge.* The administrative law judge may address questions to each witness at the conclusion of questioning by the appellant and the appellee. Said questioning shall be solely to clarify the record or witness testimony and shall be limited to the issues identified by the parties.

41.1007(10) *Rebuttal witnesses and additional evidence.* At the conclusion of the initial presentation of evidence and at the discretion of the administrative law judge, either party may be permitted to present rebuttal witnesses and additional evidence of matters previously placed in evidence. No new matters of evidence may be raised during this period of rebuttal.

41.1007(11) *Appellant final argument.* The appellant may make a final argument, not to exceed a length of time established by the administrative law judge, in which the evidence presented may be reviewed, the conclusions which the appellant believes most logically follow from the evidence may be outlined and a recommendation of action may be made to the administrative law judge.

41.1007(12) *Appellee final argument.* The appellee may make a final argument for a period of time not to exceed that granted to the appellant in which the evidence presented may be reviewed, the conclusions which the appellee believes most logically follow from the evidence may be outlined and a recommendation of action may be made to the administrative law judge.

41.1007(13) *Third-party final argument.* At the discretion of the administrative law judge, a third party directly involved in the original proceeding may make a final argument.

41.1007(14) *Rebuttal of final argument.* At the discretion of the administrative law judge, either side may be given an opportunity to rebut the other’s final argument. No new arguments may be raised during rebuttal.

41.1007(15) *Written briefs.* Any party may submit written briefs. Written briefs by a person who is not a party may be accepted at the discretion of the administrative law judge. A brief shall provide legal authority for an argument, but shall not be considered as evidence. Copies of written briefs shall be delivered to all parties and, if desired, each party may submit reply briefs at the conclusion of the hearing or at a mutually agreeable time. A final decision shall be reached and a copy of the decision shall be mailed to the parties within the time period provided by 41.515(1), unless the administrative law judge granted an extension of time or continuance pursuant to 41.515(3). The time for filing briefs may be a ground to extend the time for final decision.